

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LEWIS COUNTY, WASHINGTON**

<b>IN THE MATTER OF NOTICING A HEARING</b>	)	
<b>ON A PROPOSED BUSINESS LICENSE</b>	)	
<b>ORDINANCE FOR PRODUCING, PROCESSING,</b>	)	<b>RESOLUTION No. 13-494</b>
<b>AND RETAILING MARIJUANA AND RELATED</b>	)	
<b>PRODUCTS</b>		

**WHEREAS**, the Washington State Liquor Board has enacted rules regarding the production, processing and retail sale of marijuana and related products; and,

**WHEREAS**, it is in the public interest to require persons proposing to produce, process or sell marijuana products pursuant to the Liquor Board's rules in unincorporated Lewis County to register with the county and obtain a license; and,

**WHEREAS**, it is in the public interest to require all such persons to demonstrate that they have received all permits and approvals required by law and are in compliance with applicable law before receiving a county license to grow, process or sell marijuana products in unincorporated Lewis County; and,

**WHEREAS**, the proposed ordinance includes four (4) sections, proposed *L.C.C. 5.20.010 - .040*; with proposed *L.C.C. 5.20.010* reciting the purpose and scope of the proposed ordinance and the basis of its requirements in the Supremacy Clause of the United States Constitution and art. 1, § 2, and art. XI, § 11 of the Washington Constitution; with proposed *L.C.C. 5.20.020* stating a business license shall be required for any person or entity to produce, process or sell marijuana or related products within the unincorporated areas of Lewis County; with proposed *L.C.C. 5.20.030* stating the requirements for the application for the business license, including but not limited to payment of a fee of \$500, proof of state licensure, compliance with Lewis County zoning and land use laws, and proof of registration approval from the United States Attorney General pursuant to 21 U.S.C. § 823 of the Controlled Substances Act of 1970, which implements the United Nations Single Convention on Narcotic Drugs treaty ratified by the United States Senate and implemented by the Controlled Substances Act of 1970 codified at 21 U.S.C. § 801 *et seq.*; and, with *L.C.C. 5.20.040* describing the penalties for failure to comply, including misdemeanor conviction and, upon conviction, a fine of not less than \$300 and not exceeding \$500, and imprisonment for not less than twenty-four (24) hours and not exceeding ninety (90) days; and,

**NOW THEREFORE BE IT RESOLVED** that the 4th day of November, 2013, at or after the hour of 10:00 a.m., in the Board of County Commissioner's Hearing Room on the 2<sup>nd</sup> floor of the Historic Courthouse in Chehalis, Washington, has been fixed by the Lewis County Board of County Commissioners as the time and place for the hearing on the proposed business license ordinance for marijuana businesses in unincorporated portions of Lewis County pursuant to and in compliance with Washington State Liquor Board Rules, when and where all persons may appear and be heard upon said proposed ordinance;

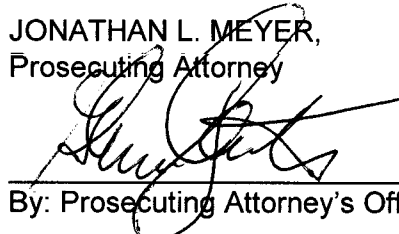
and that the Clerk of the Board is hereby instructed to proceed with all necessary notifications, posting and publication.

PASSED IN REGULAR SESSION this 21st day of October, 2013.

BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY WASHINGTON

APPROVED AS TO FORM:

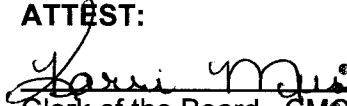
JONATHAN L. MEYER,  
Prosecuting Attorney

  
By: Prosecuting Attorney's Office

  
P.W. SCHULTE, Chairman

  
F. LEE GROSE, Member

ATTEST:

  
Clerk of the Board, CMC KARRI MOIR

  
EDNA J. FUND, Member

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**NOTICE OF PUBLIC HEARING**  
**Before the**  
**LEWIS COUNTY BOARD OF COUNTY COMMISSIONERS**

**NOTICE IS HEREBY GIVEN** that the **LEWIS COUNTY, Washington, BOARD OF COUNTY COMMISSIONERS** will hold a public hearing on **November 4, 2013**, for the purpose of receiving public testimony on the proposed adoption of a business license ordinance for producing, processing, and retailing marijuana and related products within the unincorporated areas of Lewis County. The proposed ordinance includes four (4) sections, proposed L.C.C. 5.20.010 - .040. Proposed L.C.C. 5.20.010 recites the purpose and scope of the proposed ordinance and the basis for its requirements in the Supremacy Clause of the United States Constitution and art. I, § 2, and art. XI, § 11 of the Washington Constitution. Proposed L.C.C. 5.20.020 states the application for and receipt of the business license shall be required for any person or entity to produce, process or sell marijuana or related products within the unincorporated areas of Lewis County. Proposed L.C.C. 5.20.030 lists the requirements for the application for the business license, including but not limited to payment of a fee of \$500, proof of state licensure, compliance with Lewis County zoning and land use laws, and proof of registration approval from the United States Attorney General or Drug Enforcement Administration pursuant to 21 U.S.C. § 823 of the Controlled Substances Act of 1970, which implements the United Nations Single Convention on Narcotic Drugs treaty ratified by the United States Senate and implemented by the Controlled Substances Act of 1970, codified at 21 U.S.C. § 801 *et seq.* Proposed L.C.C. 5.20.040 enumerates the penalties for failure to comply with the ordinance, including misdemeanor conviction and, upon conviction, a fine of not less than \$300 and not exceeding \$500, and imprisonment for not less than twenty-four (24) hours and not exceeding ninety (90) days.

The full text of the proposed ordinance is available upon request to Clerk, Board of County Commissioners, 351 N.W. North Street, Chehalis, WA 98532 and at the Lewis County website at <http://lewiscountywa.gov/>

**The hearing will be held on or after 10:00 A.M., on Monday, November 4, 2013, at the Lewis County Courthouse, County Commissioners' Hearing Room, 351 N.W. North Street, Chehalis, Washington.**

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PUBLISH: *East County Journal* – Oct. 23, 2013 and Oct. 30, 2013  
*The Chronicle* – Oct. 24, 2013 and Oct. 31, 2013  
Lewis County Web Site:

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**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LEWIS COUNTY, WASHINGTON**

AN ORDINANCE OF LEWIS COUNTY )  
ADOPTING A NEW CHAPTER 20 OF )  
TITLE 5 OF LEWIS COUNTY CODE ) **ORDINANCE NO. \_\_\_\_**  
REGARDING A LICENSE TO PRODUCE, )  
PROCESS, AND SELL AT RETAIL )  
MARIJUANA AND RELATED PRODUCTS )

**WHEREAS**, the United States Senate ratified the United Nations Single Convention on Narcotic Drugs outlawing the production, processing and distribution of marijuana, except as provided therein; and

**WHEREAS**, to execute the treaty, the United States Congress enacted the Controlled Substances Act, 21 U.S.C. §801 *et seq.*, including the provisions of 21 U.S.C. §823 that authorize only the United States Attorney General to grant exemptions from the prohibition on producing, processing and distributing marijuana and related products; and

**WHEREAS**, art. I, § 2 of the Washington State Constitution states that the United States Constitution is the Supreme Law of the State of Washington; and

**WHEREAS**, art. VI of the United States Constitution states:

This Constitution, and the Laws of the United States which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding;

**WHEREAS**, art. XI, §11 of the Washington Constitution also authorizes the county to make and enforce within its limits such local police, sanitary and other regulations; and

**WHEREAS**, this Board finds that it is in the interest of the people of Lewis County to regulate the production, processing and distribution of marijuana and related products in the unincorporated areas of the County to ensure that such activities are known to the County and are conducted in compliance with applicable federal, state and local laws; and

**WHEREAS**, a hearing on this ordinance has been duly noticed and notice published pursuant to and in compliance with the requirements of state law and a public hearing held pursuant to such notice on November 4, 2013, at or about 10 am in the Historical Courthouse in Chehalis, Washington, for the purpose of taking public testimony on this proposed ordinance; and

**WHEREAS**, the Board of County Commissioners has considered the recommendations of County staff and testimony from the public and finds that the proposed regulations are consistent with applicable law and are in the best interest of the public;

**NOW THEREFORE BE IT ORDAINED** by the Lewis County Board of County Commissioners that:

1. Lewis County adopts and incorporates proposed Title 5, Chapter 20 to Lewis County Code as recommended by County Staff as follows:

**5.20.010 Purpose and Scope**

(1)The purpose of this chapter is to regulate and monitor individuals or entities within the unincorporated areas of Lewis County, Washington, licensed as producers, processors, and retailers of marijuana or related products under WAC 314-55. Art. XI, § 11 of the Washington Constitution authorizes Lewis County to make and enforce within its limits local police, sanitary and other regulations in compliance with general laws. The failure to procure a license under WAC 314-55 shall not be a defense for failing to comply with the provisions of this chapter and the provisions of this chapter shall apply to any individual or entity producing, processing, or holding for sale marijuana or related products.

(2)Lewis County recognizes that the Constitution of the United States and the laws of the United States made in pursuance thereof are the supreme law of the United States and the State of Washington, as recognized by the plain reading of Article I, § 2 of the Washington State Constitution and the decisions of the Washington Supreme Court. The purpose of this chapter is to ensure that all production, processing, and retailing of marijuana and related products within the unincorporated areas of Lewis County, Washington, comply with the supreme laws of the United States.

(3)Procurement of a license under this chapter will not waive the requirement for any other local, state, or federal permit or license as required by those entities.

**5.20.020 Provision – License Required**

(1)It shall be unlawful for any person or entity within the unincorporated areas of Lewis County, Washington, to produce, process, or sell or hold out for sale marijuana or related products without first having obtained a license pursuant to the provisions of this chapter; provided that persons or entities only producing or processing marijuana under the authority of RCW 69.51A (Medical Cannabis) shall not be subject to the requirements of this chapter.

(2)Procurement of a license or permit issued by State agencies, other counties, cities, or the federal government do not alleviate the requirement that all producers, processors, and retailers of marijuana or related products obtain a license pursuant to this chapter prior to operating within the unincorporated areas of Lewis County.

(3)The activities governed by this chapter are deemed to take place within the unincorporated areas of Lewis County, Washington, if any portion of the production, processing, or retail activities take place within the boundaries of the unincorporated areas of Lewis County, Washington; provided that the provision of this chapter shall not apply to the transportation of marijuana or related products through Lewis County when the transportation is not related directly or indirectly to production, processing, or retail activities within the unincorporated areas

of Lewis County. Production, processing, or retail activities which take place both within and without the unincorporated areas of Lewis County require a license as if all portions were to occur within the unincorporated areas of Lewis County.

**5.20.030 – Application Requirements – Approval, Denial, and Appeal – Expiration and Renewal – Revocation – Fees**

(1) Application Requirements. A license issued pursuant to this chapter shall be construed as a business license for producing, processing, and retailing marijuana and related products and shall only be issued following application to the director of community development. Applications for a license required by this chapter shall be submitted in such form and detail as reasonably prescribed by the director of community development. Such applications shall be signed by the applicant who shall certify that all of the information contained within and attached the application is correct and, at a minimum, shall include: name, address, and date of birth or incorporation or origination of the applicant; hours of operation; emergency contact information for after-hours contact; payment of applicable fees; proof of state licensure under WAC 314-55 or application under WAC 314-55; proof of registration approval from the United States Attorney General or Drug Enforcement Administration pursuant to 21 U.S.C. § 823 for producing, processing, or retailing marijuana, as evidenced by notice from the United States Attorney General or Drug Enforcement Administration in the *Federal Register*; proof of a criminal history check indicating that the applicant has not been convicted of any crime involving a controlled substance; and proof of compliance with Lewis County zoning and land use regulations.

(2) Approval and Denial. The director of community development shall review all completed and properly submitted applications to determine whether the requirements as established in subsection (1) and as prescribed by the director of community development have been met by the applicant. It shall be the burden of the applicant to show by a preponderance of the evidence that the applicant has met the requirements for the issuance of the license. Applications meeting the requirements as established in subsection (1) and as prescribed by the director of community development shall be approved by the director of community development within thirty (30) days of submission of the completed application and such approval shall be evidenced by a license signed by the director of community development and issued to the applicant by mailing the license to the applicant at the address provided in the application. Applications not meeting the requirements as established in subsection (1) and as prescribed by the director of community development shall be denied by the director of community development within thirty (30) days of submission of the completed application and such denial shall be evidenced by a letter summarizing the deficiencies in the application and shall be signed by the director of community development and mailed to the applicant at the address provided in the application. Failure of the director of community development to take action on a completed and properly submitted application shall be deemed a denial of the application, but all fees paid by the applicant shall be returned to the applicant upon demand by the applicant to the director of community development. Denial of an application may be appealed to the hearing examiner pursuant to LCC 2.25; provided that no fee shall be charged for the appeal. Review by the hearing examiner shall be *de novo*.

(3) Incomplete or improperly submitted applications will not be considered by the director of community development.

(4) Expiration and Renewal. A license issued pursuant to this chapter shall be effective for one (1) year from the date of application approval. An applicant desiring to renew a license may submit an application not earlier than sixty (60) days prior the expiration date of its current license. All applications for renewal shall be treated as an initial application and must meet all of the requirements of an initial application. No license shall issue under this chapter to an applicant holding another license issued pursuant to this chapter until the prior license expires or is revoked.

(5) Revocation. The director of community development may revoke a license issued under this chapter if the applicant at any time is found by a preponderance of the evidence to no longer meet the requirements established for application under subsection (1). The director of community development shall revoke a license issued to an applicant under this chapter if the applicant at any time is found to have been convicted of a crime involving a controlled substance in any jurisdiction. The director of community development shall provide notice of the revocation to the applicant either by personal service or by mailing notice to the address provided to the applicant during the application process. Revocation of a license may be appealed to the hearing examiner pursuant to LCC 2.25; provided that no fee shall be charged for the appeal. Review by the hearing examiner shall be *de novo*. Upon notice to the applicant of revocation by the director of community development, the applicant shall stay all production, processing, and retailing activity immediately unless the hearing examiner lifts such stay pending appeal.

(6) The director of community development may review a license holder's compliance with this chapter at the director's discretion. The prosecuting attorney may, but is not required to, notify the director of community development if the holder of a license under this chapter is convicted of a crime involving a controlled substance or is otherwise believed to be out of compliance with the requirements of this chapter.

(7) Fees. The non-refundable fee for the application shall be five hundred dollars (\$500.00) or as set from time to time by resolution.

#### **5.20.040 Enforcement – Penalties**

Any person or entity failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not less than three hundred dollars (\$300) but not exceeding five hundred dollars (\$500) and shall be imprisoned in the county jail for a period not less than twenty-four (24) consecutive hours but not exceeding ninety (90) days. A person or entity shall be guilty of a separate offense for each day in which a violation occurs. A person or entity can be charged as a principal if the person or entity is the principal violator or if the person or entity is liable as a principal under RCW 9A.08.020. In addition, a conviction under this section shall automatically revoke any license issued to the violator pursuant to this chapter and the violator shall not be eligible to apply for a license under this chapter for a period of three (3) years from the date of conviction.

**PASSED IN REGULAR SESSION THIS 4<sup>th</sup> day of November, 2013, after a public hearing was held November 4, 2013 pursuant to Notice published in the *East County Journal* on October \_\_, 2013 and *The Chronicle* on October \_\_, 2013.**



**DRAFT**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON

\_\_\_\_\_  
Clerk of the Board

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APPROVED AS TO FORM:  
Jonathan Meyer, Prosecuting Attorney

By: \_\_\_\_\_  
Civil Deputy

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

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Member